CF0000060959

CrA 678/96 (2)

/- APPEAL OF PRISONER -/ Division Bench (Criminal)

No. 338 Name सोडी लच्छु

Father's Name पोदिया Residence ग्राम - मोखपाल
थाना - कुआकोंडा

Age 36 Sentenced to आजीवन कारावास on

21.12.95 under Section 302 I.P.C. by S.J. Jagdalpur.

S.T.No. 236/94

It is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear with the seven days he may be heard at all if the prisoner states that the does not wish to be represented by legal practioner the Court may proceed at once with the case and will not be obliged to give a hearing to any legal proct-itioner who should appear.

1. Date of application for copy of Judgement : No.
2. Date of which copy received :- 21.12.95
3. Date on which Appelisent :- 1.96
4. Whether the prisoner wished to be represented or not Yes/~~No~~.

No. 338 Name सोडी लच्छु पिता पोदिया

Continued in जिला Jail जगदलपुर

No. 208/octagon/96 Dated 10/1/96

Forwarded to the CHIEF JUDICIAL MAGISTRATE Jagdalpur. together with a copy of judgement or order passed in the c for favour of transmission to the proper Appliate Court.

Superintendent Central/Distt., Sub Jail.

Date of receipt in C.J.M's Office. 25/1/96

Date of receipt of record of accompany. —

Memo of Appeal of the Appelliate Court. —

No. 1 Dated 29.1.96

Forwarded to the Hon'ble Sessions Judge Jagdalpur.

C.J. Magistrate 29/1/96

Date of receipt of Appelliate Court.

XI-HC-22

(19)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cri. A. No. 678/96 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

D.B. : HON'BLE SHRI LAL CHAND BHADOO, J. AND HON'BLE SHRI VIJAY KUMAR SHRIVASTAVA, J.

19-12-2005

Mrs. Kiran Jain, counsel for the accused/appellant. Mr. Ashish Shukla, Additional Public Prosecutor and Mr. Sachin Singh Rajput, Panel Lawyer for the respondent/State.

Heard.

ORAL JUDGMENT

1. By this appeal, the accused/appellant Sodhi Lachchhoo has questioned the legality of judgment of conviction and order of sentence dated 21-12-1995 passed by Sessions Judge, Jagdalpur in Sessions Trial No.236/94, whereby learned Sessions Judge, after holding the accused/appellant guilty for commission of the offence under Section 302 of the Indian Penal Code, sentenced him to undergo imprisonment for life.

2. The case of the prosecution, in brief, is that, on 15-3-1994 at about 8 P.M., the deceased Podiya came to the house of

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ....—2—.... सन् 200

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Pandu along with Sodhi Pide, P.W.-3 to sit by the fire side to warm the body. At that time, the accused Sodhi Lachchhoo came with an Axe and due to animosity on account of the liquor, started quarreling with Podiya and attacked him with the Axe on neck, head and mouth, and as a result of which, he died spontaneously. P.W.-3, Sodhi Pide informed to P.W.-4, Sodhi Hidma, who went to the house of Podiya and saw the dead body of Podiya and apprised the villagers about the incident and lodged a report in Police Station Kuvakonda. After registering the case, Police Officer Janiram Dhruv, P.W.-6 came to the scene of occurrence and prepared a Panchnama, Ex.P7 of the dead body of Podiya and sent the body for post mortem to Primary Health Centre, Kuvakonda, where Dr.Hansraj Verma, P.W.-1 conducted post mortem on the body of Podiya and prepared a post mortem report, Ex.P-1. After completion of the investigation, a charge-sheet was filed in the Court of Judicial Magistrate First Class, Dantewada, wherefrom learned Sessions Judge received the case on committal for trial.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ....-3-.... सन् 200

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3. The prosecution, in order to prove the charge against the accused, examined 6 witnesses. On the other hand, statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, in which, he denied the prosecution evidence and stated that he has been falsely implicated in the crime.

4. Learned Sessions Judge, after hearing the arguments of learned counsel for both the parties, convicted and sentenced the accused as mentioned in para 1 of this judgment.

5. We have heard the counsel for the parties. The fact of homicidal nature of death of Podiya has not been disputed by learned counsel for the accused/appellant. Apart from that, eye-witnesses namely Sodhi Kosi, P.W.-2 and Sodhi Pide, P.W.-3, have stated that, they witnessed the crime and P.W.-1, Dr.Hansraj Verma has stated that, he conducted the post mortem on the body of Podiya and he noticed 6 injuries on the body, and opined that the death of Podiya was homicidal in nature and the injuries were

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

sufficient in the ordinary course of nature to cause the death. Therefore, in view of the above evidence of the eye-witnesses and the medical evidence, it is established that, the death of Podiya was homicidal in nature.

6. So far as the question of involvement of the accused/appellant in the crime in question is concerned, P.W.-2, Sodhi Kosi has stated that, Sodhi Podiya along with his wife came to his house. At that time, the accused came with an Axe and attacked Sodhi Podiya repeatedly, as a result of which, Podiya died on the spot and the accused ran away. So is the evidence of Sodhi Pide, P.W.-3, who has corroborated the evidence of Sodhi Kosi, P.W.-2, and in the cross-examination of these witnesses, nothing has been elicited, which makes the evidence of these witnesses unreliable or untrustworthy. The evidence of these witnesses stand corroborated by the medical evidence of P.W.-1, Dr.Hansraj Verma, who has stated that, on 17-3-1994, he conducted the post mortem on the body of Sodhi Podiya and found that there was a

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आदेश पत्रक

मामला क्रमांक ....-5-.... सन् 200

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

cut injury of the sharp edged weapon on the right side of the chest below the nipple in the size of 1½ inches x 1 inch. There was a stab wound on the occipital region in the size of 2½ inches x ¼ inch and it was deep upto cranial cavity and on account of this injury, the fluid matter of the brain was coming out and the skull, duramater and brain were also cut. There was a stab wound in the right hand. There was a cut wound on the left hand. There was a stab wound in the left hand and there was an injury on the dorsum of the left hand. He has further stated that, on account of the injury No.2, skull was fractured and duramater was also fractured. All the injuries were anti mortem and homicidal in nature. Therefore, in view of the above evidence of the eye-witnesses and the medical evidence, the involvement of the accused/appellant in committing the murder of Sodhi Podiya is established and the finding of the trial Court is based on the legal evidence. The same does not require any interference by this Court. The injuries were inflicted by the accused in such a brutal manner that the skull of the deceased was fractured and he

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आदेश पत्रक

मामला क्रमांक ....6.... सन् 200

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

repeatedly assaulted with an Axe and caused 6 injuries on the vital parts of the body. Therefore, we do not find any ground to interfere the finding of the trial Court convicting the accused/appellant for commission of the offence under Section 302 of the Indian Penal Code and sentencing him to undergo imprisonment for life. The appeal is devoid of merit.

7. In the result, the appeal is liable to be dismissed and is accordingly dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
V.K. Shrivatava
Judge

G.Singh

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